UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

MAY 1 3 2004

U.S. PATENT AND TRADEMARK OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT H. SHELTON

Application No. 09/025,279

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences (hereinafter the "Board") on July 23, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On August 13, 2003, the Board mailed an Order Returning
Undocketed Appeal (hereinafter the "Order") wherein the Board
notified the examiner that claims 75 and 76 contained errors. On
March 22, 2004, the attorney for appellant filed a "Response to
Order . . . Returning Undocketed Appeal" (Paper No. 30). The
attorney states on page 1 of his response that the "record had
been checked and that the listing of claims was correct as set
forth in the 'Request for Reinstatement of the Appeal of
29 November, 2001.'" A careful review of the record reveals that

Application No. 09/025,279

while the Board inadvertently erred in its Order (Paper No. 28) by stating that claims 75 and 76 were to depend from "claim 42," appellant also errs by stating that claims 75 and 76 depend from "claim 74." According to appellant's amendment filed on September 8, 2000 (Paper No. 15), claims 75 and 76 are shown to depend from claim 72 and not claim 74, as shown in the Appendix of Claims. Therefore, appellant's Appendix of Claims is not correct according to the amendment filed on September 8, 2000 (Paper No. 15).

Accordingly, it is

ORDERED that the application is returned to the

-examiner for notifying appellant to submit a corrected Appendix

to the Brief in accordance with appellant's latest amendment

(Paper No. 15), and for such further action as may be
appropriate.

BOARD OF PATENT APPEALS AND INTERFERENCES

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